

COMMITTEE ON BILLS ON SECOND READING

August 17, 2004

Chairman Lopez called the meeting to order.

Chairman Lopez called for a moment of silence on behalf of former Mayor Robert Shaw who passed away this afternoon.

The Clerk called the roll.

Present: Aldermen Lopez, Roy, Sysyn, DeVries, O'Neil

Messrs.: Deputy Chief Simmons, E. Sawyer, V. Lamberton, J. Hills,
Deputy Solicitor Arnold, R. MacKenzie

7. Ordinance:

“Chapter 94: Noise Regulations”

Chairman Lopez stated I am going to take Item 7 first because one of the Aldermen has another appointment and I want him to participate in this Ordinance on noise regulations. I spent most of the day talking to a lot of people and I would ask Deputy Chief Gary Simmons to come forward. I would also ask Eric Sawyer to have a seat up here in case there are some questions for him. Everyone on the Board knows that we had an amendment by Alderman Gatsas to increase the fines to \$100 for the first offense, \$250 for the second offense and \$1,000 for the third offense. I think the main issue of the ordinance that came before us and what really started this whole process in checking with Matt Normand who put a great deal into this and Eric Sawyer was the concerts at Singer Park and that problem went away. So the noise regulation ordinance that was passed by the Committee on Administration came before Bills on Second Reading and it was complicated and a lot of people did not review it such as the City Solicitor and Chief of Police but I will let them speak for themselves. With that, I would like Deputy Chief Simmons, who has had an opportunity to look at, make some comments. I have also had some conversations today with Eric Sawyer to make sure we understand what we are doing here. With that I will turn it over to Deputy Chief Simmons.

Deputy Chief Gary Simmons stated first of all I would like to say that we certainly...not to create a pun here but we have heard the concerns of the citizens,

Mr. Crowley and all of the people who have responded to the *Union Leader*. As the Chief had mentioned at the previous Board meeting, we understand the need to enforce the ordinances at hand. We have done so. I believe at the time he had mentioned some numbers. Certainly as a result of the responses to the Union Leader, as well as Mr. Crowley's concerns, we realize the need to continue to address the noise problem and we will continue to do so. With that being said, I was asked to look at the current ordinance before the Board, which is an ordinance that basically refers to the use of the decibel meter. We have obviously taken a lot of time to study this, as well as started to look at other agencies and other areas that have this type of an ordinance in place. I would suggest to the Committee that that is certainly heading in the right direction. With that though I also feel that the current ordinance we have also has some merit to it and some teeth as well. I was asked to come before the Board and discuss both of those ordinances. My suggestion to the Committee would be that we continue to review the current ordinance with the decibel meter issues, as well as the current ordinance we have on hand. I have spoken with the City Solicitor's Office and other people in the department and we feel that we could probably in a study combine the two and make a more effective ordinance than we currently have. I believe the direction that the decibel meter ordinance has taken is certainly the right direction. I believe the ordinance that we currently have has some merit to it as well and I think incorporating both of those would certainly assist us in that regard. That being said, no matter what the ordinance is we certainly, as I indicated to you today, Alderman, make efforts to address the issues when we can given the calls for service. The Chief had indicated that unfortunately we can't always be where we want to. We have other calls to make, etc., but we certainly understand the concerns of the citizens and will continue to work in that regard to enforce the ordinances. With that also being said I know that the second portion deals with fines. I have spoken with Matt Normand from the City Clerk's Office and we suggested that an increase in the fines would certainly help in that regard as well.

Chairman Lopez asked Mr. Sawyer are there any comments you would like to make on the ordinance.

Mr. Eric Sawyer stated what I did was sometime during the Singer Park era I realized that there was a lot being said about the noise and very little understanding. What I did was weed through the thousands and thousands of pages of documents and worked up a noise ordinance based on a public health issue. I worked very closely with the City Solicitor, Tom Arnold, on it. I basically patterned it after the Denver style ordinance because the two ordinances that are held up most often in the legislature are the Chicago style and the Denver style. The Chicago style would require that the enforcement personnel would basically have a physics major in acoustics and I didn't think that was appropriate so I went more with the Denver style and put all of the hard questions back to a

board of experts who would be knowledgeable in acoustics for public health issues with acoustics. That is how we drafted this. I am only hear to speak about the science of it and the numbers that are in the ordinance can be substantiated with test data and other kinds of information that basically comes from the World Health Organization report and is consistent with the EPA memo on levels in 1974 and some other Federal statutes. In fact, with the noise violations you may find that you have some Federal avenues as it is illegal to modify vehicles with noise equipment prior to sale.

Alderman DeVries stated first I would like to ask a question or two of Eric. I certainly appreciate as a citizen the hundreds of hours that you must have put in to researching the different noise ordinances in use throughout the country, as well as taking a look at the enforceability of those particular ordinances and finding which ones would be most applicable for the City of Manchester. There are a couple of issues that I think...our police staff is new since this was last looked at with you so probably they are just coming fresh to this. The particular ordinance that you drafted along with Matt Normand at the City Clerk's Office and Tom Arnold addresses...correct my terms if they are not scientifically correct but a static noise issue as opposed to a nuisance noise.

Mr. Sawyer responded it is a steady state noise issue. It is something that is going to be there all the time. Say an exhaust fan from a restaurant.

Alderman DeVries asked so it really wasn't something that was drafted to specifically address the nuisance noise.

Mr. Sawyer answered not momentary nuisance noises; no.

Alderman DeVries stated that is why the Deputy Chief is advising today that we take a look at a hybrid maybe of our two ordinances – the one that we have on the books that addresses nuisance noise as well as improving on our decibel readings and the other science of that noise ordinance to address steady state noise.

Mr. Sawyer replied as I said before Chapell Hill has an ordinance that is very similar to that and I do know that that ordinance has been time tested in a Federal appellate court. It hasn't gone higher than that. The reason I know about it is I got it from a legal document on noise enforcement. I traced it back and saw where it went to the Federal court and was withheld.

Alderman DeVries stated to follow-up on that I guess the additional question I would have is the noise ordinance that we have on the books today is, in fact, something that you have been ticketing, Deputy, and have been receiving fines

back for...I think Chief Driscoll told us that maybe 40 tickets had been given out as of the last meeting and I am sure several since then.

Deputy Chief Simmons responded yes that is correct. Actually in July just for loud noise alone it was 35. I am sorry, that was in June. In July there were over 300 summonses. They included loud exhaust. He tried to break it down a little more and 72 of those we refer to as quality of life issues, which dealt directly with the noise ordinance itself.

Alderman DeVries asked did I hear 300.

Deputy Chief Simmons answered 300 summonses during the month for loud exhaust and/or noise issues.

Alderman DeVries stated that is impressive. What I would like to recommend that this Committee do, because obviously there is a quality of life issue that we need to address, we do have one enforcement tool on the books today to address the nuisance noise, which is the quality of life issue that has been brought to our attention. I believe if we assist the Police Department with some additional funding in this process that they can even beef up more on the 300 summonses that you have handed out and really tackle this problem over the next one or two months...motorcycles go to bed for the winter so we will get some rest from the motorcycle noise – not the loud stereos but the motorcycle noise for the winter. I would make a motion that this Committee in their report back to the full Board recommend that we transfer \$10,000 from contingency to the CIP project that was established in this budget year to address speed enforcement in the neighborhoods. That was modeled after a grant program and was an item that I fought very hard for and was very marginally funded. If we beef that up with an extra \$10,000, the way that that program is set-up it is flexible so we can address specific neighborhoods in the City as well as different times of day and attack our noise issue at the same time that we continue to clamp down on speeding in our neighborhoods. I do believe that the Finance Director feels this can be done but he needs to look at this so I would also ask that the Finance Department address this potential transfer from contingency to CIP before it happened and that would be a \$10,000 suggestion that I am making. I think that would really help us in the next few months and next spring when the motorcycles come back out to clamp down on this issue.

Chairman Lopez stated before I accept that motion let's have some more discussion.

Alderman O'Neil stated I was going to second her motion. The one question I would have for Deputy Simmons and I want to make sure that I understood

Alderman DeVries correctly, they have to be two separate types of enforcement don't they – speed and noise? Can they be out running a radar gun and somehow...there was approximately \$13,000 or \$14,000 and \$13,000 I think was the correct number that we put in the CIP budget for targeted speed enforcement to complement some of the other programs that you have going. Can we expect that if Candia Road is the given area to work for speed enforcement on a night that that is the best use of the money also for the noise enforcement? I guess my point is should we separate those out. Unless I misunderstood Alderman DeVries it sounded like she was grouping them together and making a total program of \$23,000 when I think that noise enforcement – one of the places you may want to emphasize is Elm Street for instance versus...you are not going to be doing speed enforcement on Elm Street.

Alderman DeVries stated let me clarify before the Deputy attempts because I am not trying to tell the Police Department the best mechanism. I am looking for a method of funding this today.

Alderman O'Neil responded and I support that. It is just to me it is apples and oranges how they are carried out.

Alderman DeVries replied but it is probably the only mechanism that we can add to their budget to put these additional details out there.

Alderman O'Neil responded I am not disagreeing with the funding of it. I am just saying the way it came out it sounded like you would expect that they would do both in the same function and I don't think that is necessarily practical.

Deputy Chief Simmons stated I guess the best way to answer that would be if the speed detail was out there and they came across a noise violation they would certainly act on that. That being said, you brought up a good point. Some of the areas of concern where we have noise may not be the same areas of concern where we have speeding and Elm Street is a good example. We don't get many, except for the North end of Elm Street, speeding problems on Elm Street. To take that speed car and put him down on Elm Street for noise violations you are taking him away from other areas of concern for speeding.

Alderman O'Neil duly seconded Alderman DeVries's motion.

Alderman Roy stated going on the same vein that Alderman DeVries was going I do believe that this is a quality of life issue. \$10,000 – what does that get us when it comes to funding this program?

Deputy Chief Simmons responded doing a rough estimate today I would indicate that using a one-man detail that would give us approximately 70 four-hour patrols. That is 70 days and we could break that up accordingly. I would suggest to you that we would take some of that and save it for the spring when the bikes come back out and everybody gets spring fever and the windows are open and the stereos are cranked up. We will certainly utilize some of that now to try to nip this in the bud before too long and then probably suggest that we keep some for the spring.

Alderman Roy asked so you are saying 70 days of one-man patrols.

Deputy Chief Simmons answered that is correct.

Alderman Roy asked how many summonses would you expect from that officer.

Deputy Chief Simmons replied it would be tough to guess. I guess I would say that on any given day...as an example the last two speed enforcement details we did averaged about six summonses, six warnings for twelve motor vehicle stops. Depending on the discretion...certainly there is plenty of room for activity. How many summonses are out there I wouldn't want to guess?

Alderman Roy asked was that six per day or six per hour.

Deputy Chief Simmons answered that would be in a four hour shift. There would be twelve stops, six warnings and six summonses.

Alderman Roy stated just a statement. In reading the noise ordinance that was put together and again I do commend Eric and the City staff – Matt Normand and the Solicitor's Office for getting this done. It raised a lot of questions as to what I could do as a homeowner on my own property regarding trimming the hedge along my property line. If my gas hedge trimmer is too loud I will be offending my neighbor at a certain residential dba level. So I would like it looked at not only by the Solicitor's Office but the Police Department. This is something that I want to see stopped and I bring up the example of Sunday when I was trimming my hedge in the front of my property a motorcycle turned by my house and I looked at my wife and said do you find that noise offensive and she said not necessarily offensive but my ears hurt in a joking way. The motorcycles...this wasn't someone who was revving his engine to make his presence known. Loud pipes do save lives in my opinion under certain circumstances but this was someone turning off of a residential street and accelerating on a residential street. As far as the car radios, I think they add more to the danger of our City in traffic violations than they do for potential enjoyment but that is my personal opinion. I don't know necessarily if \$10,000 is the right number. I would hate to see us just put a small

amount of money towards this to possibly curtail the public outcry for support. It is a start and I will support it but I think it is something that we need a directive, not only from this Committee but our whole Board of Mayor and Aldermen and I think it is clear that the Police Department should just write the tickets, write the tickets, write the tickets. If that is the only way to get it across to people who are offending other people and quality of life is to write a ticket, then a ticket has to be written and that is the only way this is going to be corrected.

Chairman Lopez stated if an individual gets stopped for speeding, that is a ticket where the money goes to the state. Would that individual get two tickets if he had a loud muffler or something?

Deputy Chief Simmons replied most of those would be state summonses. That money goes to the state. If there is an issue relative to noise – for example if his stereo was extremely loud and violated the City ordinance we would give them a summons for the City ordinance violation. So it would be a state summons for speed, a state summons possibly for loud exhaust if it was a defective equipment issue and the loud music would be a City ordinance.

Mr. Sawyer stated we talked about the hedge trimmers and lawnmowers and things like that. Since sometime in the late 70's, hedge trimmers, lawnmowers and like products have had to conform to U.S. Title 42, Chapter 65 Noise Control Act. In fact, that may be another avenue of enforcement for you with the motorcycles that have been altered.

Alderman O'Neil asked do you guys have the equipment necessary to support writing all of these tickets. Just explain to me briefly the process. Is it an observation of the police officer? Do we have decibel meters available and they use those in their judgement in writing a ticket?

Deputy Chief Simmons stated right now under the current ordinance we don't use the decibel meters because it doesn't reflect anything relative to the decibel level so right now it is officer observation or citizen complaint. I believe the Chief referred to that motor vehicle law relative to loud exhaust that deals with measuring the sound by a decibel meter. It is extremely cumbersome and very difficult to measure given the parameters of the law. We would certainly like to somewhere along the line address that with the state as well.

Alderman O'Neil asked is that where you need two police officers.

Deputy Chief Simmons answered yes two police officers. One at a 45 degree angle at 3,000 rpms. Those are very cumbersome operations. We do have...we

did purchase two decibel meters a couple of years ago I believe for that purpose but it became so difficult to enforce that we relied on the City ordinance.

Alderman Osborne asked on motorcycles they come with...supposedly when they buy them they come with a stock muffler correct.

Deputy Chief Simmons answered correct.

Alderman Osborne stated and then some of these people change them over and put an after market muffler.

Deputy Chief Simmons responded correct.

Alderman Osborne asked is there anything on the books or any ordinance regarding that. In other words, say that this motorcycle is going down the street but at this time he is not revving the motor and so on and so forth it is really not throwing off a lot of decibels is there anything to stop a motorcycle and looking at the muffler to see whether it is a stock muffler or whether it is an after market muffler.

Deputy Chief Simmons stated yes there is Alderman. Usually we will stop them because usually on an after market the noise is louder than the stock muffler that came with the bike. Where the problem comes in and I believe the Chief referred to it, that law with the state has been modified in that an after market muffler is now allowed on that vehicle even though the sound may be louder than the original equipment. With that being said though, we will rely on the inspection requirements and we can look at the muffler to make sure the baffles haven't been removed and it hasn't been altered to create additional sound. Sometimes that works for the bikes where the baffles have been removed but there are those after market mufflers where the baffles are still in there and they are louder. That is the problem we are having with the new law.

Alderman Osborne stated so it is back to the state I guess.

Deputy Chief Simmons responded on a portion of that law, yes.

Chairman Lopez called for a vote on the motion to recommend a transfer of \$10,000 from contingency to the CIP project for speed enforcement. There being none opposed, the motion carried.

Chairman Lopez stated before we move on I would like to talk about an amendment that was suggested at the Board meeting. \$100 for the first offense, \$250 for the second offense and \$1,000 for the third offense. Before I accept a

motion I would like to have the Deputy comment on that because we had a conversation regarding the fine for the third offense.

Deputy Chief Simmons stated in looking at the code enforcement section on a third offense several of those refer to “must appear in court”. My suggestion would be that rather than a third offense being a \$1,000 fine that if a third offense is committed that individual must appear in court before a judge at that point.

Chairman Lopez asked would you suggest that the second offense be higher than \$250 then.

Deputy Chief Simmons answered if someone gets fined at \$100 and comes back with a \$250 fine I would be surprised. I think \$250 is certainly adequate. The third offense, though, my feeling is that they should be before a judge explaining why they are there.

Alderman DeVries moved to amend the Code Enforcement Chapter of the Code of Ordinances by adding new penalties for violations of the noise regulations in the amount of \$100 for the first offense, \$250 for the second offense, and a court appearance for the third offense.

Deputy Clerk Normand stated before we take a second on that motion there is an amendment that was passed out to the Committee and it addresses specifically this issue. It has the chart on it. The bold print obviously was put in to address the noise ordinance that was going to be discussed tonight. We would be passing this based on what Deputy Chief Simmons and Alderman DeVries just discussed. That bold print would be changed essentially to 94.02 and 94.03 and the first offense as stated would be \$100 for each, the second offense would be \$250 for each and the final would be a must appear in court for the third offense. These essentially are the sections that refer to the old noise regulation, chapter 94.

Alderman O'Neil duly seconded the motion.

Alderman Roy stated in looking at some of the comparable violations, personally I think that the number should be higher. A \$100 fine for the first offense is fine but I think the second offense should be higher and the third offense should be a court appearance. I will entertain if anyone is thinking of higher than \$250 for the second offense. Is there any support for that?

Alderman O'Neil stated I take the Deputy's opinion that when they get that first one for \$100 very few people are going to be looking to get a second one at \$250. I don't want to speak for you, Deputy, but interpreted that to mean that there are teeth in the \$100, \$250 and court appearance.

Deputy Chief Simmons responded certainly I appreciate what you are saying, Alderman, and it is up to the Board but just from the experience we have seen in court relative to different ordinances like that it seems to be effective when you have that.

Chairman Lopez called for a vote on the motion. There being none opposed, the motion carried.

Chairman Lopez asked publicity once the full Board passes this...what type of publicity are we going to have for the public other than the newspaper. Will there be anything on MCTV to let people know that there is a new ordinance in effect? Will a press release go out to the *Union Leader* and *Hippo Press*?

Deputy Chief Simmons answered I hadn't really given that some thought but we could certainly make the public aware in Manchester what the ordinance is.

Chairman Lopez stated that would be good. We will try to do it here at the Board meeting to and let them know that the ordinance is in effect. It is just like if you park in a handicapped spot it is \$250. People are learning that pretty fast. I think the Board is taking some necessary action that has to be done...

Deputy Chief Simmons interjected informing the public is always a smart move.

Alderman Roy stated as we go forward with Alderman DeVries's motion of combining our current ordinance and the other ordinance that has been in front of us I would ask whoever is going to review that, whether it is the Police Department working with Eric Sawyer and the Clerk's Office or whoever that we look towards a fine system for either audio shops or mechanic shops that blatantly install equipment with the intention of it being outside of our ordinance. I don't know how legal it is but I think that sending the message that it is not just the operator of the vehicle but it could also be the shop that fills the trunk with speakers that could be fined. I know with the after market pipes on motorcycles we do have state inspection regulations. I think those should be looked at. We can notify some of your more popular motorcycle shops that this is something that Manchester is taking seriously. As far as the audio I don't know if there is any licensing requirement for them to report installed equipment but I would like to see something in the ordinance that not only goes after the operators but the people who are selling the sometimes very high end equipment to make the noise that these cars produce.

Deputy Chief Simmons responded we can certainly address that as well, Alderman.

Chairman Lopez asked before I ask that the noise ordinance be tabled, I want to make sure that the letter that Eric Sawyer wrote on May 13, 2002...the City Solicitor has a copy of it and the Police have a copy of it. There are some things on Page 3 that require training, etc. and they will have to review that process. At the same time, in the noise ordinance and I just want to mention this to the people who are going to review it and I would presume that would be the Deputy Chief, the City Solicitor, Matt Normand and Eric Sawyer who helped with this ordinance tremendously trying to make everyone understand what is happening here, that there is a creation of a new board of about 10 people and I think the Committee on Administration might be the avenue for any problems that come up and you can take the other layer out of there so you don't have to wait six months to get something done by having an Advisory Board tell the Aldermen what should be done. Just take a look at that and see if that is something we want to move forward.

Alderman DeVries stated there are a couple of other items that I was hoping we could direct the full Board on. One would be that we recommend that staff elicit the participation of the Municipal Association to correct the state statute that made it possible to put on the after market exhaust and that we also, be it through resolution or whatever, work through our delegation of state elected officials to correct that change and to do that as expeditiously as possible.

Alderman O'Neil responded I don't disagree with Alderman DeVries but I think it may be appropriate to look at...there are probably several different state laws. It isn't single-handedly that one state law that has created more noise. There may be other state laws that we need to look at and ask for changes or modifications to as well. I think we need to hear back from the Police Department on some recommendations that we can then go forward with to our delegation and to the Municipal Association.

Alderman DeVries replied I will accept that. I also wanted to make sure that Eric Sawyer was included in the process of trying to co-mingle the two ordinances. He did bring forward the Chapell Hill nuisance noise ordinance that they are using and that has been successfully upheld in the courts and I wanted to make sure that is co-mingled into the effort that we look at since it has survived a court challenge.

Deputy Chief Simmons responded I am sure that we will be extracting information from Mr. Sawyer.

Chairman Lopez stated right and I think it is the wishes of the Committee that Eric Sawyer be part of the process and be the consultant since he is talking about language that people don't always understand, including myself.

Alderman DeVries moved to table the noise ordinance.

Mr. Sawyer stated I just want to remind you that you talked about the state statute with the motorcycles and you may find relief in looking at the federal noise statute because I believe it specifically addresses that. I think it limits all kind of noise whether it is from a chainsaw or whatever to less than 89 decibels. You may find a lot of relief in that.

Alderman Roy duly seconded the motion. Chairman Lopez called for a vote. There being none opposed, the motion carried.

Chairman Lopez addressed Item 3 of the agenda:

Ordinance:

“Amending Chapter 32. Boards, Commissions, and Departments of the Code of Ordinances of the City of Manchester by renaming the Art Commission to the Arts Commission.”

On motion of Alderman Sysyn, duly seconded by Alderman DeVries it was voted that the Ordinance ought to pass.

Chairman Lopez addressed Item 4 of the agenda:

Ordinance:

“Amending Sections 33.024, 33.025, & 33.026 (City Coordinator) of the Code of Ordinances of the City of Manchester.”

Ms. Virginia Lamberton stated after the meeting at the Human Resources and Insurance Committee there were recommendations to change some of the language in the proposed class specification and since that meeting there has been other suggestions to change the language and I have taken all of those suggestions and incorporated them into a new proposed class specification, which I will hand out. I wasn't smart enough today to put all of the changes in bold so you will have to bear with me. One of the first changes was that Bob MacKenzie was concerned in the original class specification...that had language essentially saying that the position would have some responsibilities for CIP and that was not appropriate so that was taken out right away. Then today...well there was other language too that was taken out. I am not going to remember right off the top of my head but if you look at just the first page and the general statement of duties, that was revised somewhat to talk about more promotional and economic development. It was

much more descriptive of what some of the other Aldermen and other individuals thought the position should be versus the first draft that we had before. Then if you look at, if you go to the second page of the draft these are additions to the class specifications. One of them says...if you go to the third one down it says, "shall provide the Board of Mayor and Aldermen with written quarterly reports for the activities of the department." That is new. The next one is, "shall prepare and present to the Board of Mayor and Aldermen annual state of the City economic report and forecast as part of the annual budget process." The third one is, "shall be responsible for development, implementation and maintenance of local economic development plan or strategy, which shall include specific measurable goals, objectives and timetables. I think the next one is also an addition, "shall work with federal, state, regional and local economic development agencies to protect and strengthen local tax base and local economy." Then "shall work with Greater Manchester communities to foster promotional goals to benefit this region." So it is more than just the City – the whole Greater Manchester area. Other than that, I don't believe there were any other additions or deletions other than, again, the language about CIP was removed.

Alderman Roy stated, Ginny, while I believe the City of Manchester needs a City Coordinator and our size justifies that, I strongly feel that economic development is one of the most important activities within the City. I just get the feeling from the work that is being done on the City Coordinator position that we are trying to fit two positions into one and neither one may be done. Are we kind of doubling up and expecting too much or is this something that can be from a Human Resources standpoint accomplished? Can the person fulfill the duties that we have put forward effectively?

Ms. Lamberton responded first of all this was...I did this because the Aldermen asked me to combine these duties just so you understand that. Secondly, based on what I know and don't know it sounded to me like there needed to be more communication or interdepartmental activities going around on all of the development activities and you need to have a point person. So you take the MEDO job and again we are proposing increasing grades here because this position would have additional and more complicated responsibilities dealing with other departments as well as with the regular MEDO activities. I think it can be done. Whenever you are doing something like this you have to pick the right person. We can write up specs until the cows come home but then once you go to interview people you have to hire the best person for the job.

Chairman Lopez stated let me follow-up on that. Jane, since you are the Acting Economic Development Director can you come up please? There is one area that since I have reviewed the whole process of the City Coordinator has come to my attention in the last 24 hours from a number of people and I want to share it with

the Committee. When and probably Alderman Sysyn knows better than the rest of us because she was here when John Hoben was here...is that correct?

Alderman Sysyn responded it was John Snow.

Chairman Lopez stated still when there was a City Coordinator I think they were called a City Coordinator because things were not in place as we have today. We have the Planning Department. We have CIP. We have the new Charter that we have in the City where the department heads are responsible for their budgets. We have a complete new Charter. I guess what I am getting at is maybe the title of City Coordinator is the wrong title and it should be Economic Development Coordinator that we are really talking about to take over the division. Would you agree to that? To go along with Alderman Roy because I think we are saying a City Coordinator under the old terms of John Snow and John Hoben when they were the czars so to speak in the City and I don't think under the new Charter that we want to create that type of atmosphere. I think that even Paul Porter remembers those days when one individual had everything moving. I was wondering about the title being changed to an Economic Development Coordinator position who would be in charge of the Economic Development division along with all of the other things that were mentioned. Does anybody have any comments on that?

Alderman Porter stated I think the term Coordinator in the past the City Coordinator tended to concentrate on coordination between departments. I think we are really looking for something totally different than that type of thing whatever you call it. I mean certainly the specs and everything would fit...I don't know what the title should be but one question I have Ginny is under the revised class specification it has, "public/private partnerships." What does that mean?

Ms. Lamberton responded I would have to defer to Alderman Lopez.

Chairman Lopez stated I am going to defer to Jane Hills. The only reason I say that is because I think it is appropriate for her to answer. I know my philosophy but I want to hear hers. I know what I am talking about but she works with it every day and we have had some situations...just to set the stage as to the economic development where you have a retention and all of those people down there. When I say all of those people maybe three different structures. Why don't you explain what we talked about?

Ms. Jane Hills stated to be public/private partnership just involves the City working with the private sector whether it is developers or the Chamber of Commerce or other organizations that are also working in economic development to foster everybody moving in the same direction and accomplishing their goals.

Alderman Porter asked where does MDC fit into this. Is MDC a quasi-private organization or is it a quasi-public.

Ms. Hills answered I would leave that to the Solicitor. It is a non-profit corporation whose only member is the City of Manchester.

Deputy Solicitor Thomas Arnold stated I believe she is correct. I don't know what more I could say beyond that. It is a separate corporation.

Alderman Porter asked is it quasi-public.

Deputy Solicitor Arnold answered it is quasi-public in that the City of Manchester is the sole holder but it is a separate corporation.

Alderman DeVries stated I would like us to briefly review or Ginny if you could briefly review the acceptable experience and training component. I just want to be sure that that was updated to current day standards in that...I couldn't agree with you more that this is going to be totally dependent on the individual that we put in to it. The job specifications can say one thing but we need to get the right person. Do we have the right experience and training in here to be sure that we...

Ms. Lamberton interjected what we did here was combine the education from the former MEDO position with the former City Coordinator position and then we added the phrase "or related field", which kind of leaves things wide open. So if you are looking at a person that has 20 years of economic development experience but a degree in Math it is probably going to be okay because it is an equivalency. You see what I mean?

Alderman DeVries answered I do. In the first one, the Master's Degree, it seems like a Master's Degree has become what a four-year college degree was years ago. Is that the level that...

Ms. Lamberton interjected both of the former specs required the Masters. That is why I left it in.

Alderman DeVries asked are there any other certifications that we should insist on and maybe Jane can help.

Ms. Hills answered I don't know about insisting on them. There is a national certification through the International Economic Development Council that can be obtained. No one working in Economic Development in Manchester has ever gotten one. It is a very lengthy process. Not all economic developers have it.

That might be something you can add in. I don't necessarily think it should be a mandatory requirement.

Ms. Lamberton stated my inclination would be not to do that. When you are screening candidates you might want to pull that out and see what the difference is in the background of the person that has those credentials versus the people who don't have those credentials.

Alderman DeVries asked how can we be sure that process actually happens – the screening process pulling the national certification.

Ms. Lamberton answered because first of all in order to even get applications they are going to have to meet the minimum standards and then lots of people have more than the minimum. All we are looking for is the minimum. So when you receive applications you are going to see all of the other things that any candidate might have had and you may pick one over another to actually interview because of those extra certifications or experiences.

Alderman Roy stated going on the same vein of questioning as Alderman DeVries, which I seem to be doing a lot of this evening, under the acceptable experience and training is there not a level of service or work experience that would overcome the Bachelor's or Master's degree. I always try to look at job descriptions as not looking at specific people or City employees as we have them now but as who we could find to fill these positions today and 10 or 20 years from now. While I strongly agree that we should ask for the best, I also believe that we should give City employees the ability to work up to something. Taking, for example, I don't know what Frank Thomas' education background is but he is one of our best department heads.

Ms. Lamberton responded Frank has a degree in civil engineering and he is a licensed professional engineer.

Alderman Roy stated but he would not fit into this criteria and I am just using Frank because he is one of our...

Ms. Lamberton interjected probably not because he has no economic development. That is quite different than running a Highway Department.

Alderman Roy stated the point I am making though is that we are not leaving the application process, in my opinion, open enough that we could get a stellar employee who may not fit the exact mold that we are looking for just in an education background.

Ms. Lamberton replied based on what I know about Frank he wouldn't have the education or the experience.

Alderman Roy responded my point is just a long-term employee and I was using someone who has been with us for awhile.

Ms. Lamberton stated this is a high level position. A highly visible position. This is a profession. It is not something that...if you want to have trainees then we can have trainees at a much lower level. This is not a trainee level position. There are people who go to college like Bob MacKenzie who has a Master's Degree in Planning. You cannot be a professional planner without a Master's Degree. You cannot be a Librarian without a Master's Degree. A third party has kind of made those decisions for us so we are following along in those professional standards is what we are doing.

Alderman Roy responded while I don't mind following along the professional standards I don't want to rule out a Bob MacKenzie who may not have graduated from college and that is only point I am trying to make. There has to be some point where...make it 20 years or make it some equivalency level where if they are doing this job in another town or another city and they want to move up to the Queen City that they have that ability.

Ms. Lamberton stated my rebuttal to that would be that you recruit based on these standards and if you don't get anything then you change the standards or lower the standards. I believe you will get people who are qualified and very energetic and very interested who have the credentials of either a Master's Degree or the background.

Alderman Porter stated I don't have any problems with the acceptable experience and training for one reason. In there is planning or a related field and 11 years of extensive experience. I think, first of all, most candidates who would want to apply for the job would probably have those credentials. I think one of the important things and it is very seldom or not to often that department head level positions are filled in the City of Manchester. I would think that one of the criteria, not for applying for the job but after the interview would be to get a demonstration of successes that they have had or actual background of what they have done in another community. I think that we all know that some people can interview well. Their resumes can be outstanding and they may or may not have the desire or ability to perform...it is just a function of whether you go on a resume or whether you actually delve into a background to look at successes. I think that I, myself, don't see anything wrong with these requirements because more than likely they would have these. I think it would be very important for the

HR Committee, not here, but I would like to make sure that we have that person be able to demonstrate successes that they have had in other communities.

Ms. Lamberton responded if I may in the City Charter there is a requirement or there might be an ordinance that there be a written policy on how department heads are selected. Our City policy requires us to have questions and when we develop questions we ask people in their profession what kind of questions are going to be a way for us to find out from these candidates that they really know what they are talking about. That is the beginning process and then there is a Committee of usually five people. It usually consists of the Mayor, a couple of Aldermen and then somebody in the profession to help us along. That has worked fairly well so far, I think, with our City Assessor and our Chief of Police. We have done well in getting the best people for those jobs and screening out other people who were good but they weren't the best.

Chairman Lopez stated so the title indicated here is City Coordinator. I would recommend Economic Development Coordinator. Is that okay?

Alderman Roy replied if we are looking at this person as a department head shouldn't it be Director as we do with Planning, Finance, etc.

Ms. Lamberton stated I personally think it should be Economic Development Director. I think we should stick with that.

Chairman Lopez stated I think it is important because City Coordinator is sort of obsolete. So that is one change.

Alderman DeVries stated I have one additional question. It took me awhile to find it. On the second page, Ginny, and I haven't looked at your draft tonight but I will assume it is still there, it says, "keeps immediate supervisor".

Ms. Lamberton responded that got deleted. That was substituted for stronger language to keep the Board apprised of what is going on and being required to produce quarterly reports to the Board of Mayor and Aldermen.

Chairman Lopez stated I will entertain a motion to accept the amended class specification.

Alderman DeVries moved that the ordinance ought to pass as amended to Economic Development Director with the amended class specifications. Alderman Sysyn duly seconded the motion. Chairman Lopez called for a vote. There being none opposed, the motion carried.

Ms. Lamberton stated so what we are doing is really not changing the title. We are changing the duties and establishing a higher level of responsibilities for this position and we are reallocating the position from a salary grade 26 to a 28 as a result of that. That is really what we are doing. I can get the City Clerk's Office another revised spec with the old title tomorrow.

Chairman Lopez asked do we have a timeframe for publicizing the job, etc. We only have funds for a half a year.

Ms. Lamberton answered correct.

Chairman Lopez asked so are we shooting for December/January.

Ms. Lamberton stated I think we talked about wanting to employ somebody in January. There is plenty of time for good recruitment and interviewing and training and background checks.

Chairman Lopez stated I think both Committees did meet – HR and Administration to get this person aboard and let him come in and take that office and see what he or she can do.

Alderman Roy asked, Ginny, a grade 28, what is that salary range.

Ms. Lamberton answered I am going to give you the minimum of the 26 and the minimum of a 28. The minimum of 26 is \$65,370. The minimum of 28 is \$74,842.

Alderman Roy asked what is the maximum of a grade 28.

Ms. Lamberton answered \$106,706.

Alderman Roy asked how does that compare to the rest of the directors throughout the City.

Ms. Lamberton answered most of the directors are 28's and 29's. We have a couple of 31's. I forget but I think the Airport Director is something else.

Alderman Roy asked so if we do hire a qualified person on the top end of this we are not going to be looking at an uproar from other directors who feel they are undercompensated.

Ms. Lamberton answered I can't say that. All I can say is my guess is that you probably...I don't recall hiring anybody at the maximum as a department head. I only recall hiring a step 4 or 5.

Alderman Roy stated I just want to make sure that as we go through this process we are not upsetting an apple cart.

Ms. Lamberton responded there is only so much money in the departmental budget so that is going to set some limitations unless the Mayor or whoever is interviewing feels strong enough that they come back to the Board to ask for money from the contingency fund to supplement that budget.

Chairman Lopez addressed Item 5 of the agenda:

Ordinance:

“Amending Section 33.025 (Assistant to the Assessors) of the Code of Ordinances of the City of Manchester.”

Alderman Roy stated while I do like to see us moving from Grade 17 to Grade 16, no one is here from the Assessor's Office to discuss this. I don't know if Ginny has any information.

Ms. Lamberton responded certainly. I am not sure if you were on the Board when we have talked about my responsibilities in the past when it comes to positions and classifying them but one of the things I agreed to do with the Board is when positions became open I would do one of two types of reviews. A real in-depth review of the position duties or just a quick look at it. There are certain jobs that I am not going to change – laborer and whatnot. A laborer is a laborer but the higher up you go or one incumbent...this is the only title in the City, I am going to look at. In addition to that the Aldermen when they approved the Residential Appraiser Trainee spec they told the Chief Assessor to have me look at this position to insure that it was still at the proper grade, the proper title and the proper specs. That is how this happened. So the current incumbent filled out a questionnaire. We did desk audits. We looked backwards and what I found was that the duties of this position never supported a Grade 17. When Yarger Decker did their study, in addition to originally proposing that the Assessors be what they are now, this position was also proposed to be a Grade 16. Somebody appealed that to an appeal board and I don't know what that was but somehow or another it became a Grade 17 but there were no changes in the duties or the spec and the points were never changed. So when we got this we looked and the position really has been overgraded for all of those years because nothing supported the Grade 17. Then

when we were verifying the duties, we felt that the duties were proper for the position.

Alderman Roy asked is this position currently filled.

Ms. Lamberton answered the position will become vacant shortly and it will be posted at the appropriate grade hopefully.

Alderman Roy asked so this does not affect the current City employee.

Ms. Lamberton answered no she is moving on to be the Appraiser Trainee.

Alderman Roy asked so when this becomes vacant at that point it goes from a Grade 17 to Grade 16 and that person starts where they are supposed to be.

Alderman Roy moved that the ordinance ought to pass. Alderman DeVries duly seconded the motion. Chairman Lopez called for a vote. There being none opposed, the motion carried.

Chairman Lopez addressed Item 6 of the agenda:

Ordinances:

“Authorizing the Mayor to Dispose of Certain Tax Deeded Property Known as 398 Hanover Street, Map 0289, Lot 0015.”

“Authorizing the Mayor to Dispose of Certain Tax Deeded Property Known as Michigan Avenue, Map 0246, Lot 0001.”

On motion of Alderman Roy, duly seconded by Alderman DeVries it was voted that the Ordinances ought to pass.

Chairman Lopez addressed Item 8 of the agenda:

Zoning Ordinance Amendment:

“Amending the Zoning Ordinance of the City of Manchester by amending the School “Impact Fee Schedule” referenced in section 13.04 of the ordinance. Two optional fee schedules will be reviewed including Option A – Fees based upon improvements to K-8, and Option B – Fees based upon improvements to K-12 based upon

methodologies presented by the Planning Board. Fees would be assessed to each newly constructed dwelling unit.”

Chairman Lopez asked Mr. MacKenzie do you want to bring us...I am familiar with the impact fee. What are you recommending?

Mr. Robert MacKenzie answered I did again review this issue with the staff today. We have been talking it over. There is a fairly significant difference in the price tag. Just to give you an example right now single-family homes are charged about \$1,600 per unit. Under the K-8 proposal that would be about \$2,700. Under the K-12 it then jumps up to \$4,500. I would, because I am sure this ordinance will be challenged again, it has been challenged once but on other issues and the City did prevail. I think the staff would probably be on the conservative side and say that we should do the K-8, which is a slightly lower fee. That is primarily because in discussions with the Finance Department most, if not all, of the new additions to the high school are being paid by the tuition contract from surrounding towns. I have some difficulty determining an argument in front of the court, for example, to conclude that we needed that money for the additions. So the staff is being conservative on this and perhaps recommending a K-8 program.

Alderman DeVries stated I am going back to the presentation that was in front of the Planning Board and if I recollect that correctly there was something about the impact fee had to also address some sort of timeliness of the potential need to build a facility. Does that sound correct to you?

Mr. MacKenzie responded yes. There is under the state statutes...impact fees have to be applied for what they are intended for within six years or the money gets paid back. So there is...this is not like a 20 year timeframe. I think this is a more like a shorter term 5-6 year timeframe.

Alderman DeVries stated so based on that you will understand where this question is going. Did you do any research today to find out for me...is Hooksett charging today for K-12?

Mr. MacKenzie answered we did some research. Hooksett is charging K-8. We did note that Bedford is charging K-12. There are differences even in the region.

Alderman DeVries asked and Candia and Auburn were not sure – the other two towns that are part of our 20-year tuition agreement.

Mr. MacKenzie answered right.

Alderman DeVries stated I guess the reason that I bring that to your attention is they are also subject, if I read that correct, in Bedford to potentially if they enter into a 20-year agreement with us it is not yet done potentially court challenged on their K-12. If we are looking at Candia and Auburn also charging K-12 with no need to build a high school in their town because they are in the middle of a 20 year agreement would that put them in violation of that six year state statute and subject them to a court challenge?

Mr. MacKenzie responded I think that their tuition contract with us will help them. I think they could argue to the court that since they make annual payments towards the construction of a facility, almost like a cooperative high school, that the amount that they do charge on the impact fees roll into that tuition and pay for because basically a portion of the tuition contract each year is for construction and capital improvements. It is possible they could argue in court that they are charging so they can help pay a portion of the tuition related to high school construction.

Alderman DeVries asked and the converse would be true certainly if Bedford doesn't enter into that 20-year agreement with us and for some reason we don't capture that entire high school component now the taxpayers for the City of Manchester could be on the hook for picking up the difference of that high school addition. If we do not include K-12 on this today we would have missed the opportunity to capture that from new construction?

Mr. MacKenzie answered we would have missed the opportunity but would be in the unusual position of having a lot of excess capacity at that point.

Alderman DeVries stated I guess I am not worried about the capacity or the enrollment of the schools but the cost of constructing it and its affect on the tax rate. My thought is that we should go with the K-12 and capture the \$4,500 versus the \$2,700. Tell me the process if we are challenged in a court. What will happen?

Mr. MacKenzie responded I would probably defer to Mr. Arnold. The court could probably order that overpayments be remanded back to the people who paid them. That is kind of a logistical nightmare in that some people have moved and we have to track down the original owners but the court could order that payments be made back. They would either order that the City stop collecting them but they might actually order that the City would have to repay them.

Chairman Lopez stated are you saying just for clarification that if we went to K-12 we would have excess money after a period of six years I think you said and we

would have X number of dollars there that we could use or apply to our schools and we would have to return that money back. Is that what we are saying?

Mr. MacKenzie responded that is a possibility. Again, I haven't spoken with Tom Arnold on it in detail, but I suspect those would be the scenarios if they were challenged in court and someone did win against the City that the court would either stop the collection of that portion or would actually have the City repay portions.

Chairman Lopez asked so the impact fee that we do get, that is just strictly for construction and not maintenance.

Mr. MacKenzie answered yes. Under state statute that can only be used for new construction. It can't even be used for renovations. It has to be used for added capacity. So the monies we have collected in the past has gone directly to the Parkside Middle School addition, the McLaughlin School addition and they have been specifically earmarked to those because they were new capacity added to the City.

Chairman Lopez asked you can't interchange them.

Mr. MacKenzie answered no.

Alderman Roy stated I have a couple of questions for you, Bob, but I will start with some of my favorite words, affordable housing. As you look at increasing the impact fee could you express the impact on affordable housing and who actually pays this tax?

Mr. MacKenzie responded the tax is paid by, in the case of new construction of a for sale unit, the developer or the person who is building it at the time of CO. That money sometimes is transferred to the new purchaser. It is harder for me to give you a good clear answer because frankly the law of supply and demand regulates the final price of the housing more than...let's say that a builder builds a unit for \$100,000. I mean he wouldn't normally just tack on \$2,700 to it because he is constrained by supply and demand. If you don't have a willing buyer at \$102,700 that is really what controls it. The homebuilders will say yes the costs are passed on but I don't think that is really how it works in the market. If a house is worth \$200,000, people will pay \$200,000 for it. They are not going to pay \$200,000 plus the impact fee. So it may cut into developer's profits, potentially. It may make it less able to build new units but I can't say that that directly translates into a cost passed on to the end user.

Alderman Roy asked under your Table 1 School Impact Fee Dwelling Unit, K-12 and K-8 looking at some of the ratios that we are using for discussion later on Candia Road, 80 units of multi-family housing creating 14 students could you give us the ratio for single-family detached homes and attached townhouses. I just find that some of the inequities that are passed along to your single-family residential homes that may be producing one child per home may be producing two but are paying far more than your single-family attached townhouse, which may be having one child or may be having two. I think the unfairness of the ordinance is interesting.

Mr. MacKenzie answered I do understand...we were concerned about those same inequities so we actually did in this case more than most communities do in developing impact fees. We worked with the School Department to get the listing of every single student in the public school system. We assigned those to various addresses. We determined what the addresses were. Were they attached townhouses? Were they newly constructed in the last six years? These ratios are based upon the best available information. This is not some national average. This is actual public school students in actual single-family homes and townhouses. We did try to get the best available information on units that were recently built and how many students they will really generate. Yes, they will vary from project to project but these are averages within the City of Manchester.

Alderman DeVries stated I think the discussion was around how open we will be to court challenge and what would happen or if you are able to answer this tonight what you think might happen as a result of an award or a case being lost when challenged in the court.

Mr. MacKenzie stated this particular question was brought to my attention this afternoon. Unfortunately, I have not had time to research it. However, off the top of my head more or less I think that you would probably be open to challenge on an argument that you are double collecting the fee. You are not only collecting a fee for capital improvements from the tuition towns but you are collecting again in the form of impact fee within Manchester. If that were challenged and if the challenging party were to prevail I think I would agree with Mr. MacKenzie that first of all at minimum the court would probably order that the fees not be collected. Certainly with respect to the party challenging it probably not as probable but would be likely that they may order the refund of some fees, although that is a separate area of law with separate arguments although they would probably prevail on not collecting future fees and fees as to the party involved might not be likely to get an order of refund. I could say that that certainly is possible. I would not discount that possibility.

Alderman Porter asked, Bob, theoretically if there was no new construction or new homes built the enrollment in schools would go down.

Mr. Mackenzie answered yes the way the cycle of school aged kids is going I would suspect that schools would perhaps decline slightly in enrollment if there was no new construction.

Alderman Porter asked have you done any research into projections of how many new single detached dwellings in the next five years or any of these other categories. What I am getting at is is there going to be a need for new construction due to new homes being built over the next five to ten years? If not, would we not be penalizing new construction for nothing and without having to increase the space? What are we basing not the fee on but the requirements for new construction in schools? If we saw that in three or four years we are going to have to put on an addition at X, Y, Z school or with any school in the City then I think it would be justified but do you anticipate an increase in students to necessitate new construction? Not maintenance, but new construction in the form of additions to schools?

Mr. MacKenzie answered I would probably but a caveat in there in that if the School Department were to succeed in getting their ideal classroom size and that is the big if, they have a goal to provide excellent education in the City by reducing classroom size. In order to achieve that, yes, we will probably need some additional capacity. We do need additional capacity at the junior high where there are the modular homes and that is going to be addressed in the construction program but it is also likely that certain elementary schools may need some additional capacity. There are elementary schools that have good class sizes right now. I look at Smyth Road School and they are doing very well in terms of class size but there are other schools that have been impacted by development and the School Board is going to have to decide whether there is an addition on one or two of those elementary schools.

Alderman Porter stated they may have already been impacted. So that even if there weren't any new homes constructed right now you may need them. I guess I am trying to justify substantial impact fee increase for yet to be built properties.

Alderman DeVries stated I certainly...I will follow-up that line of questioning. The School Department is today halfway through a school capacity study and I don't know if you have already read the first preliminary report but I certainly did attend that presentation at Memorial High School maybe two months ago. It was not a pretty picture. In fact, at that point in time following the recommended state education standards for classroom size they see the need to add additional classrooms at the elementary level and the decision...it appears it could be the

northwest area of the City but certainly it is greatly in question how the south end of the City is going to go and that is following the state education standards. That is not Manchester's ideal standard, that is the state education standard. That being said, I think there is no question in my mind knowing all of the additional proposed developments that are already somewhere in the flow that elementary capacity in the City is going to be an issue. Doing nothing is the wrong thing for us to do. I think even this report alluded to some...we are close to capacity at the elementary level. I think the only discussion that we need to have here tonight is do we look at the K-8 or do we look at the K-12? Updating our impact fees is long overdue. It, by state statute, should be done every five years or three to five years. When was the last time we were updated?

Mr. MacKenzie responded when it was originally adopted in 1995. It has not been updated since 1995 so it is almost nine years.

Alderman DeVries asked so we are beyond the timeframe for updating them.

Mr. MacKenzie answered yes we are beyond the timeframe and also the value of that...we are still charging the same amount of money so if you consider inflation, you know the money we are getting now is a lot less than the money we were getting in 1995.

Chairman Lopez stated if I remember the ordinance on the impact fee it is supposed to be done yearly – evaluated, is that correct.

Mr. MacKenzie responded the ordinances does suggest that it be evaluated yearly; yes.

Chairman Lopez asked if we were to pass this ordinance K-12 not knowing...maybe along the line with what Alderman Porter was saying that we don't know. We do know that the elementary schools are going to need assistance but that is a mute issue. If we don't know in the future...if you collect this money how many years do you have to spend it if you collect K-12.

Mr. MacKenzie answered six years. You have to commit to a construction project.

Chairman Lopez asked so if it would buy you time is it better to go K-12 now and come in with an amendment or is it better to come back next year and add. Which one in your opinion? You get where I am going?

Mr. MacKenzie answered I definitely get where you are going. If I had a clearer vision that the high schools, for example, did need some additional capacity in

three years I would probably definitely say right now let's go with the K-12. I don't...particularly because we may lose a sending town in the next six or seven years and that would throw all of our development plans off...I am just a little hesitant to recommend that because there is the possibility that we lose a town and on the other hand I don't see another major addition program to the high schools. We may have some additional renovations but again impact fees can only be used for added classrooms. They can't be used for renovating existing buildings.

Chairman Lopez asked if something happens between now and next year when we review the impact fee we could always add that addition right.

Mr. MacKenzie answered yes and it would be our hope that we would not let nine years slip by again before reviewing it. I think if we could attack it on a yearly basis...we have some really good data now from the School Department. They were very cooperative this time so next time around it should be easier and maybe we won't have to hire consultants.

Alderman DeVries moved to recommend Option A (K-8) as the zoning ordinance amendment for impact fees. Alderman Sysyn duly seconded the motion.

Alderman DeVries asked did you receive any kind of recommendation from School Administration.

Mr. MacKenzie answered not specifically on these two although they have wanted the maximum amount that was...I think they were hoping for the maximum amount that they could get legally.

Alderman DeVries stated that they could legally, was that part of their comment.

Mr. MacKenzie responded I may be adding that but they were hoping for the maximum amount.

Alderman DeVries could I ask the City Solicitor's Office if they...and I heard your statements tonight but could you just verify your facts and give us an opinion before this comes to the full Board for the final adoption. I am just wondering if we choose to amend it at the full Board discussion to K-12 we are going to want to hear further as to whether or not you feel that penalties may be assessed.

Chairman Lopez stated along that line it just triggers another question. One question always triggers another question. Atty. Arnold even though we have the \$105 million for renovation of our high schools and 33% comes from the state,

none of this money for the impact fee can be utilized for that? That has no bearing on the agreement we have with the cities and towns?

Deputy Solicitor Arnold responded I am not sure I understand your question.

Chairman Lopez stated my question is that we have an agreement with the cities and towns that they pay X number of fees for the...

Deputy Solicitor Arnold interjected for the capital expenditures yes.

Chairman Lopez asked so if we have impact fees do you consider that double that we are going to get. If we had an impact fee from K-12 as we move forward and we had this money in here could it offset expenses somehow?

Deputy Solicitor Arnold answered the impact fee as Mr. MacKenzie pointed out can only be used for new construction added capacity. It cannot be used for renovations.

Chairman Lopez stated I understand that. My question is if we did do a K-12 and we collected X number of dollars between now and then could that money be utilized as part of the \$105 million as far as upgrading our high schools.

Deputy Solicitor Arnold responded I would have to look at that question. You know part of that money probably hasn't been expended at this point. I would frankly have to research that.

Chairman Lopez stated maybe you will want to talk to Finance and all of that but they are good questions. I will accept a motion to move K-8 with the City Solicitor to look into things for a possible amendment at the full Board.

Chairman Lopez called for vote on the motion to recommend Option A (K-8) as the zoning ordinance amendment for impact fees. The motion carried with Alderman Roy being duly recorded in opposition.

TABLED ITEMS

9. Ordinance:

“Amending the Code of Ordinances of the City of Manchester by creating a new section within Chapter 111: Amusements establishing regulations for noise activities conducted in outdoor concert venues throughout the city and inserting new penalties in Section 111.99: Penalty to enforce these regulations.”

(Tabled 11/06/2002)

On motion of Alderman Roy, duly seconded by Alderman DeVries it was voted to remove this item from the table.

Chairman Lopez stated we should receive and file this because we have an ordinance that includes this that has already been tabled.

Deputy Clerk Normand asked could you hold off on receiving and filing that until we see the ordinance that comes back.

On motion of Alderman Roy, duly seconded by Alderman DeVries, it was voted to put this item back on the table.

Ordinance:

“Amending the Zoning Ordinance of the City of Manchester by changing the zoning district of property currently zoned IND (General Industrial) to R-SM (Residential Suburban Multifamily) by extending the R-SM zone district on a portion of property identified as TM478, Lot 8, located on Candia Road.”

On motion of Alderman Roy, duly seconded by Alderman Sysyn it was voted to remove this item from the table.

Mr. MacKenzie stated I know that I had asked the Committee to defer action until I got more information from the NH Housing Financing Authority. I did get that information. It was a little bit mixed and I mean mixed by vacancy rates in the City for rental properties did jump from last year to this year. They jumped fairly significantly, which would normally mean that maybe we are moving towards more of a glut of housing, but on the other hand rental rates also increased. If the data was a little different I might have expressed more concern. In my correspondence I did say that the City should, on a regular basis, monitor the housing rates but at this point I think this property itself lends itself more to housing than industrial because it is tucked in to a residential neighborhood so I would probably recommend that the Committee does consider giving it favorable consideration.

Alderman Porter asked what was the timeframe from NH Housing Financing Authority.

Mr. MacKenzie answered their surveys come out in May of each year so the one I did review was the most recent 2004.

Alderman Porter asked from what to what.

Mr. MacKenzie answered from May 2003 until May 2004.

Alderman Porter stated I think in the meantime the market has changed. I know that there have been apartment complexes that have been giving incentives for rent. I think the rental market tends to change quickly and I understand that you can't be out doing studies every day. It kind of also belies the supply and demand issue. If the supply is greater and the prices are going up there is some phenomenon that really is inexplicable and I don't think it will hold. However, I would like to ask the Committee to consider tabling this because I would like to have an opportunity to have you do a traffic study, an analysis on Waverly Street. I know it is very difficult now to get out on Waverly Street and with more units up there it will only exacerbate a tough situation already. Whether traffic lights or some sort of signalization would be appropriate I don't know but I would just request that this be tabled until we have a chance to do such a study.

Alderman DeVries responded I guess I have a very different concept of what is being asked of us because if we are being asked to rezone land, we are being asked to rezone from industrial to multi-family. I think this is private money that would develop that and if private developers have indicated the market is there to build multi-family I am not looking to second guess them. It is my job to scrutinize whether or not it is prudent and why to change this from industrial to multi-family land. I have not really made that decision yet. I have asked before and it hasn't happened and it is something that I need the assistance of the developer to really walk this land because this to me is a unique parcel. It is part of the industrial land along Industrial Park Drive so it certainly is part of an industrial park as noted by the City Master Plan and as laid out by the City. Without a doubt there are residential neighbors that would enjoy the right type of buffer from the right type of construction there. I just don't feel that case has been made – that putting in apartments is going to improve the buffering for that neighborhood versus what they might see with the industrial land. I really would like somehow to have facilitated for me a site visit. I am not saying that we have to make this...that a bus has to be hired and we all go collectively. I can get my vehicle there at a pre-arranged time when the developer will walk the bounds with me or point out the major landmarks of the boundary to me so I can make this a final opinion. Am I giving them a better buffer for the residential neighborhood or am I doing this because this developer feels that it is quicker for him to make profits on multi-family than it would be on the industrial? That is really the question. We all know that we repeat at this Committee many, many times that industrial land is important. It is scarce in the City. We have a hard time bringing in new industry. If that potential exists we should not rezone this property. They need to make the case that this needs to be a better buffer for those residential neighborhoods. What

type of building are they going to do to create that? I would second the tabling and ask that that be facilitated at the same time.

Chairman Lopez stated well Alderman Porter can't table it because he is not on the Committee.

Alderman DeVries moved to table this item to facilitate both a traffic study at the request of Alderman Porter and a site visit.

Chairman Lopez stated I would ask the Committee to table this also.

Mr. MacKenzie responded what I would probably do is ask the Traffic Department to review signal warrant for where Elton Avenue and Waverly come out to Candia Road and see if it would meet warrants for a signal even now or with a project to give you that information and I would ask the developer to perhaps set a time and I will work with the City Clerk's Office to set-up a time for the Committee to have an opportunity to see the site.

Alderman Roy stated correct me if I am wrong but my understanding of this site and I have a number of questions is that they wouldn't actually access on Waverly Street. They would be accessing a private new road within the property.

Mr. MacKenzie responded that is correct from Candia Road.

Alderman Roy asked the use of this and I do agree with your recommendation growing up in that neighborhood I do have some knowledge of what was built there and when it was built there but the three bounds of this property are all residential use. Do you feel that it should have been zoned industrial in the first place looking at if this access road was there prior to the rezoning? Would this have been zoned industrial or is this just lumped into a corner of the City we designated as industrial?

Mr. MacKenzie answered part of what changed...originally it was industrial and it still is. It made more sense until the Eastgate apartments were rezoned probably 15 years ago. That increased the residential zone and made this site we are talking about wrapped on three sides. Before it was residential on two sides. Eastgate made it on three sides. It was defacto by another decision, I think, as a Board that it made it less suitable for industrial.

Alderman Roy stated in looking at this property I will go along with the tabling but I do feel that this has been on the table for a very long time and as we scream and kick about economic development in the City this to me compared to some of the industrial uses is a perfect place for us to be rezoning this residential or RSM

and allowing the property to go forward. So I would like, if possible, all of that to be taken up by our next meeting so we can move this along. Out of respect to the Ward Alderman I will go along with tabling even though I don't agree with it.

Chairman Lopez called for a vote on table this item. The motion carried with Alderman Sysyn being duly recorded in opposition.

Alderman Roy asked Bob as far as lighting and signaling would that be a Planning Board issue. That is not something we would take up here at Lands & Buildings is it?

Mr. MacKenzie asked the signalization issue.

Alderman Roy answered yes the traffic study or anything like that.

Mr. MacKenzie stated normally it is a Planning Board issue but we do tend to work out problems before they arise so when the Old Wellington Road area was rezoned there was an understanding also that money would be set aside for signals on Wellington Road. Technically it is not an issue for this Committee but in order to do planning you have to at least think about it.

Report of the Committee on Administration/Information Systems recommending that the Board of Aldermen set the Mayor's base salary at \$85,000.00 per year effective January 2006 and that each year that a Mayor provides continuous service the salary for such position shall be increased in accordance with the Consumer Price Index (CPI). At any time a person initiates a term of office, or is appointed to complete an unexpired term of office, for the position of Mayor the salary shall initiate at the base salary of \$85,000.00. The Committee further recommends that such provisions of salary for the Mayor be forwarded to the voters as a non-binding referendum question.

This item remained on the table.

There being no further business, on motion of Alderman DeVries, duly seconded by Alderman Sysyn it was voted to adjourn.

A True Record. Attest.

Clerk of Committee